THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO: 721 of 2005

Dt.19-09-2005

Between:

M/s. Gokul Industries, rep. by Jugal Kishore Agarwal.

…Petitioner

and

1. The Superintendent of Police, Kurnool,

Kurnool District and 3 others.

…Respondents

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WRIT PETITION NO: 721 of 2005

ORDER: -

Declaring the action of the respondents 1 to 3 in interfering with the civil dispute between the petitioner and the fourth respondent, as illegal and arbitrary, the writ petition is filed.

2. Heard learned counsel for the petitioner, learned Government Pleader for Home,

appearing for the respondents 1 to 3, and learned Counsel appearing for the fourth respondent.

3. According to the petitioner, he is a dealer in Cotton Seeds and has been doing the said business for the past more than three decades, that he is having good business reputation in the commercial field of Adilabad Town, that he made certain commercial transactions during 1998-99 and the fourth respondent mediated the transaction on commission business, that it seems the fourth respondent had a dispute regarding payment of commission from the traders and consequently harassing him. While so, on 22-01-2005 at 11.21 AM, he received a telephone call from the second respondent, who claimed himself as Raj Sekhar Babu, Deputy Superintendent of Police through Cell bearing No.9440245155 to his Cell No.9849264555 who threatened with dire consequences stating that if he does not settle the dispute with the fourth respondent by paying money, the second respondent would register a false case against him and would also see his end by a false encounter.

4. The learned counsel for the petitioner contends that though the Deputy Superintendent of Police is added as a party, namely as an
eo nomine party, he has not filed any counter affidavit. He further contended that even though the Sub Inspector of Police, III Town Police Station, Nandyal, Kurnool District is not a party to the proceedings, he filed a counter affidavit on behalf of the respondents 1 to 3.

5. On the other hand, the learned Government Pleader for Home, appearing for the respondents 1 to 3 contended that the respondents 1 to 3 are not interfering with the civil disputes between the petitioner and the fourth respondent, and the learned Counsel for the fourth respondent stated that as on today there is no civil dispute pending between the petitioner and the fourth respondent.

6. On a perusal of the affidavit filed in support of the writ petition, it is clear that the only allegation levelled against the second respondent, the Deputy Superintendent of Police, is that he telephoned to the petitioner through his Cell Phone No.9440245155 to the Cell No.9849264555 threatening with dire consequences. But on a perusal of the counter affidavit filed by the Sub Inspector of Police, III Town Police Station, Nandyal, Kurnool District on behalf of the respondents 1 to 3, it is

clear that the alleged Cell Phone bearing No.9440245155 does not belong to any of the Police Officer in Kurnool District, and the Cell Phone belonging to the Deputy Superintendent of Police, is 9440795533.

7. Having regard to these circumstances, this Court is of the considered opinion that there is no need for the second respondent to file a separate counter affidavit denying the averments mentioned in the affidavit of the petitioner. In view of the same, the question of facts arising in this case cannot be resolved in exercise of the powers under Article 226 of the Constitution of India, and the remedy of the petitioner is otherwise.

8. Hence, the writ petition is devoid of merits, and is accordingly dismissed at the stage of admission.

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JUSTICE K. C. BHANU

Dt.19-09-2005

GLV